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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re R.G., A Person Coming Under the
Juvenile Court Law.

B236727
(Los Angeles County
Super. Ct. No. YJ34896)

THE PEOPLE,

Plaintiff and Respondent,

v.

R.G.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Wayne C. Denton, Commissioner. Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Lance E. Winters, Assistant Attorney General, Steven D.
Matthews and Analee J. Brodie, Deputy Attorneys General, for Plaintiff and
Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Petition*

A petition under section 602 of the Welfare and Institutions Code charged appellant R.G., then 17, with two felony counts of attempted second degree robbery. The first count charged that appellant attempted to take personal property from Jose Crisanto. The second count charged that appellant attempted to take personal property from Leonardo Vasquez.

B. *Adjudication Hearing*¹

1. *Prosecution Evidence*

Vasquez testified that on January 8, 2011 at approximately 10:20 p.m., he and Crisanto were on the sidewalk near the intersection of 104th Street and Inglewood Avenue, walking toward a store. A group of four or five males approached the two men from across the street. The group of males surrounded Vasquez and Crisanto and demanded their wallets and money.² Vasquez was pushed up against a fence or gate. He could not tell if the same thing happened to Crisanto. Vasquez felt frightened. At that point, a patrol car rolled up and illuminated the group. The males who were accosting Vasquez and Crisanto ran off. Three suspects were taken into custody a few minutes later. Vasquez could not identify any of the arrestees that night, and was unable to identify appellant or Miguel G. in court.

¹ The case against appellant was adjudicated in the same hearing as the case against his alleged collaborator, minor Miguel G.

² Vasquez testified: “They asked for our wallets, and they grabbed us. . . . They made a circle around us. . . . They said they wanted our wallets, our money[,] . . . ‘give us the money.’” Vasquez could not identify which member of the group spoke or issued the demands and was not sure if more than one person spoke.

California Highway Patrol Officer Anthony Vizcarra testified that he and his partner were in a marked patrol car on Inglewood near 104th Street on the night in question. They observed a group of four individuals cross the street and began “harassing” two people walking on Inglewood. Members of the group were yelling, but the officers could not make out the words. They appeared to have the two people pinned up against a fence or wall. One of the members of the group appeared to be “chest-bumping” Vasquez (pushing Vasquez against the fence or wall with his chest). The officers stopped their patrol car in the middle of the intersection and told everyone to stop where they were. Crisanto put his hands up, palms facing forward. The four members of the group ran off. The officers went after them in their patrol car. Officer Vizcarra grabbed one, who was intoxicated and had fallen in the street. His partner captured appellant and Miguel G. The fourth member of the group got away. The officers never lost sight of the individuals they were chasing up to the time the three were apprehended.

2. Defense Evidence

Miguel G. testified that on the night of his arrest, he had been at a party with appellant and the third male apprehended by the officers, whom Miguel identified as “Jose.” Miguel, appellant, Jose and several others left the party together. Miguel got into a fight with Jose, who was “intoxicated” and “swinging at everybody.” Jose ran and stumbled in the street, where he was apprehended by the officers. One of the officers then stopped Miguel and appellant and accused them of trying to rob someone. Miguel denied accosting or trying to rob anybody and denied demanding money from Vasquez, or even having seen him that night.

3. *Disposition*

The court found the allegations of the petition true and sustained the petition, finding that appellant continued to be a ward of the court.³ Appellant was placed home on probation.

DISCUSSION

Robbery is (1) the taking of personal property from the possession of another, (2) in his or her immediate presence, (3) against his or her will, (4) accomplished by means of force or fear. (Pen. Code, § 211; *People v. Bonner* (2000) 80 Cal.App.4th 759, 763.) Where, as here, the crime charged is attempted robbery, “the People must prove specific intent to commit robbery and a direct unequivocal overt act toward its commission. This act must go beyond mere preparation.” (*People v. Vizcarra* (1980) 110 Cal.App.3d 858, 861; accord, *People v. Bonner*, *supra*, at p. 767; see *People v. Memro* (1985) 38 Cal.3d 658, 698, overruled in part on other grounds in *People v. Gaines* (2009) 46 Cal.4th 172 [“[T]he attempt is the direct movement toward [the] commission [of the object crime] after the preparations are made. In other words, to constitute an attempt the acts of the defendant must go so far that they would result in the accomplishment of the crime unless frustrated by extraneous circumstances. [Citations.]’ [Citations.]”].)

Appellant contends that substantial evidence does not support the juvenile court’s findings that all the elements of attempted robbery were present with respect to both victims. Noting the well-established rule that for the crime of robbery to occur, the defendant’s intent to rob must arise before or at the time force or fear is applied to the victim (see *People v. Burney* (2009) 47 Cal.4th 203, 253),

³ Appellant had a previous adjudication for vandalism.

appellant contends the record lacks evidence of his intent. He further asserts that no evidence supported that he personally engaged in a direct unequivocal overt act toward the commission of the crime of robbery. Appellant also contends there was insufficient evidence of force exerted against or demands made of Crisanto, who did not testify. We are not persuaded.

When a petition is filed under section 602 of the Welfare and Institutions Code charging a minor with the commission of a crime, the juvenile court is the trier of fact and the sole judge of the credibility of the witnesses. (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1373.) On a minor's appeal challenging the sufficiency of the evidence to support the section 602 petition, we apply the same standard applicable to a criminal defendant's claim that substantial evidence did not support his or her conviction. (*In re Ryan N., supra*, at p. 1371.) Under this standard, "the critical inquiry is 'whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" (*Ibid.* italics omitted, quoting *Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.) "We draw all reasonable inferences in support of the judgment." (*People v. Wader* (1993) 5 Cal.4th 610, 640.) Even if the circumstantial evidence might be reasonably reconciled with the defendant's innocence, we do not interfere with the determination of the trier of fact. (*In re Ryan R., supra*, at p. 1372.)

The intent necessary to establish robbery "is seldom established with direct evidence but instead is usually inferred from all the facts and circumstances surrounding the crime." (*People v. Lewis* (2001) 25 Cal.4th 610, 643.) The act of robbery can be accomplished by physical intimidation, in the complete absence of assault, verbal threats or use of a weapon. (See, e.g., *People v. Brew* (1991) 2 Cal.App.4th 99, 104 [defendant who, without saying anything, inserted himself physically between cashier and cash register, causing cashier to step back in fear,

applied force or fear necessary to establish robbery].) The evidence presented at the hearing supported that appellant was a member of the group that surrounded the two victims, physically preventing them from continuing on their way down the sidewalk. The evidence clearly supported that at a minimum, appellant maintained his position, keeping the victims confined to a small area, while one or more members of the group grabbed the victims and demanded their money and wallets. In the face of his companions words and deeds, this was sufficient to support the necessary intent and the necessary overt act. Appellant need not have been the one to personally chest bump Vasquez or push either victim against the wall to be guilty of attempted robbery. (See *People v. Burney*, *supra*, 47 Cal.4th at p. 254 [intent element established where defendant used ruse to persuade victim to roll down window of his car, which allowed his companions to take victim's wallet, although defendant claimed he only intended to temporarily deprive victim of car].)

With respect to appellant's assertion that the elements of count one -- the attempted robbery of Crisanto -- were not established, Vasquez testified that both he and Crisanto were accosted by a group of men who surrounded them, kept them confined, and demanded both men's money and wallets. Crisanto need not have been personally forced back against the wall or fence or "chest-bumped" to support that he was a separate victim of the attempted robbery. The assault on Vasquez in combination with the demands made on both victims was sufficient. (See *People v. Bordelon* (2008) 162 Cal.App.4th 1311, 1315 [element of force or fear present where defendant pushed customer and demanded that teller give him money].) Moreover, to the extent appellant contends evidence of Crisanto's state of mind was lacking, the victim's actual fear "may be inferred from the circumstances, and need not be testified to explicitly by the victim." (*People v. Cuevas* (2001) 89 Cal.App.4th 689, 698.) Vasquez described the intimidating words and actions of

the group and stated that he was afraid. In adjudging the truth of the first count of the petition, the court could reasonably infer that Crisanto was fearful as well.

DISPOSITION

The judgment is affirmed.

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MANELLA, J.

We concur:

WILLHITE, Acting P. J.

SUZUKAWA, J.